REMARKS

Please reconsider the application in view of the above amendments and the following remarks. Applicant thanks the Examiner for carefully considering this application and for the courtesies extended during the telephone interview.

Disposition of Claims

Claims 1-4, 6, 9, 13, 20-22, 25-29, 31, 34-36, 39, and 43-53 are pending in this application. Claims 1, 20, 39, and 52 are independent. The remaining claims depend, directly or indirectly, from claims 1, 20, 39, and 52.

Rejection(s) under 35 U.S.C § 112

Claims 9, 44-46, 49, and 51 stand rejected under 35 U.S.C. § 112 as BEING indefinite. Claims 44 and 51 have been amended in view of this rejection. To the extent that this rejection may still apply to the amended claims, the rejection is respectfully traversed.

Claim 44 was amended to remove the language "at the receiver/decoder." Further, claim 51 has been amended to replace the language "*at a* receiver/decoder" with "*to the* receiver/decoder." Thus, claims 44 and 51 have been amended to remove the language that the Examiner asserted did not satisfy § 112, ¶1. Accordingly, withdrawal of this rejection is respectfully requested.

Rejection(s) under 35 U.S.C § 103

Claims 1, 2, 9, 20, 21, 26, 27, 31, 39, 43, 46, and 51 stand rejected under 35

U.S.C. § 103(a) as being obvious over European Patent No. 0 680 213 A2 ("Menand '213") in view of U.S. Patent No. 6,006,039 ("Steinberg"). Independent claims 1 and 20 have been amended by this reply. To the extent that this rejection may apply to the amended and non-amended claims this rejection is respectfully traversed.

Claim 20, as amended, recites a receiver/decoder that includes a receiver, a storage means, and a downloading means. More specifically, the downloading means is configured download the loader, and the receiver/decoder is configured to execute the loader. The loader, in turn, is configured to download the software into the storage means.

In contrast, Menand '213 is directed towards a method for controlling execution of an audio visual interactive program. More specifically, Menand '213 discloses a method for downloading a code module using a system loader. In order to download the code module, the system loader initially extracts a directory module from the data flow. The system loader then proceeds to determine which of the code modules listed in the directory module is to be executed first. The specific code portion the system loader is searching for is the autostart module. Once the autostart module has been located it is subsequently extracted from the data flow and executed on the processor residing in the AVI receiver. The autostart module contains information about other code modules that also need to be executed. These code modules are subsequently extracted from the data flow *by the system loader* and executed by the processor. (Menand '213, col. 2, ll. 36-55).

In view of the above, Menand '213 only contains a *single* loader (*i.e.,* the system loader) while the invention as recited in amended claim 20 includes a downloading

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means (*e.g.*, a bootstrap loader) as a well as a loader that is downloaded using the downloading means and subsequently used to download the software.

In the Response to Arguments section of the Action mailed November 11, 2003, the Examiner asserted that the autostart module is equivalent to the loader. The Applicant respectfully disagrees. Specifically, a careful reading of Menand '213 col. 2. ll. 36-55 indicates that the term "code module" (of which the autostart module is a subset) refers to application code that is executed on the processor, to provide AVI functionality to the AVI receiver. Further, the code modules may also "request" additional code modules which are subsequently extracted from the data stream. However, there is no support for the Examiner's assertion that the code module, or more specifically, the autostart module includes functionality to act as a system loader.

Steinberg does not teach what Menand '213 lacks. Steinberg is directed towards a method and apparatus for configuring a camera through external means. More specifically, Steinberg discloses setting the camera in boot strap mode and downloading a new operating system. (*see e.g.*, Steinberg Figure 2). In the discussion of loading the new operating system Steinberg only discloses using a *single* system loader.

In view of the above, neither Menand '213 Nor Steinberg, whether viewed separately or in combination, teach or suggest the invention as recited in amended claim 20. Therefore, amended claim 20 is patentable over Menand '213 and Steinberg. Amended Claims 1 and 39 include the same patentable features as claim 20, and are thus allowable for at least the same reasons as claim 20. Dependent claims 2, 9, 21, 26, 27, 31, 39, 43, 46, and 51 are likewise patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 3, 4, 22 and 23 stand rejected under 35 U.S.C. § 103(a) as being obvious over Menand '213 in view of Steinberg and further in view of U.S. Patent No. 5,367,571 ("Bowen"). Bowen teaches a subscriber terminal with a plug-in expansion card, which is a non-volatile memory. Furthermore, Bowen is completely silent to a downloading a loader, which, in turn, downloads software, as required by independent clams 1, 20, and 39. Therefore, Menand '213, Steinberg, and Bowen fail to teach the claimed invention, and thus, clams 1, 20, and 39 are patentable over Menand '213, Steinberg, and Bowen, whether considered separately or in combination. Thus, claims 3, 4, 22, and 23, being dependent, are likewise patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 6 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213 in view of Steinberg, and further in view of U.S. Patent No. 5,608,732 ("Bestler".) Bestler relates to a mechanism for loading and replacing a record (or group of records) within a record set, or indicating that the record may be stored at the user's discretion, however, Bestler is completely silent to downloading a loader as recited in claims 1, 20, and 39. Therefore, Menand '213, Steinberg, and Bestler fail to teach the claimed invention, and thus, claims 1, 20, and 39 are patentable over Menand '213, Steinberg, and Bestler, whether considered separately or in combination. Thus, claims 6 and 25, being dependent, are likewise patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 29 and 49 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213 in view of Steinberg, and further in view of U.S. Patent No. 5,666,293 ("Metz"). Metz teaches "versioning" of operating systems, but is completely silent to

downloading a loader as required by claims 1, 20, and 39. Therefore, Menand '213, Steinberg, and Metz fail to teach the claimed invention, and thus, claims 1, 20, and 39 are patentable over Menand '213, Steinberg, and Metz, whether considered separately or in combination. Thus, claims 29 and 49, being dependent, are likewise patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claims 28, 47, 48, and 50 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213, in view of Steinberg, and further in view of European Patent No. EP 0 680 213 A2 ("Menand '216"). Menand '216 teaches a method for formulating an interactive TV signal. There is no disclosure or suggestion of downloading a loader as required by claims 1, 20, 39, and 52. Therefore, Menand '213, Steinberg, and Menand '216 fail to teach the claimed invention, and thus, claims 1, 20, 39, and 52 are patentable over Menand '213, Steinberg, and Menand '216, whether considered separately in or in combination. Thus, claims 28, 47, 48, and 50, being dependent, are likewise patentable for at least the same reasons. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 13 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Menand '213, in view of Steinberg and Menand '216, and further in view of U.S. Patent No. 5,787, 017 ("Hearing"). Hearing teaches a data acquisition apparatus and is completely silent to downloading a loader as required by claim 1. Therefore, Menand, Steinberg, Menand '216 and Hearing fail to teach the claimed invention, and thus, claim 1 is patentable over Menand, Steinberg, Menand '216, and Hearing, whether considered separately or in combination. Thus, claim 13, being dependent, is likewise patentable for

at least the same reasons.

Claims 34, 35, 36, 44, 45, 52, and 53 were rejected under 35 U.S.C. §103 (a) as being unpatentable over Menand '216 in view of Menand '213 and Steinberg. As mentioned, Menand '216 teaches a method for formulating an interactive TV signal, but is completely silent to downloading a loader in native code, which in turn downloads software in native code. Again, Menand '213 and Steinberg fail to provide this feature. Therefore, Menand '216, Menand '213, and Steinberg fail to teach the claimed invention, and thus, claims 1, 20, 39, and 52, which includes the same patentable features as claims 39, are patentable over Menand '216, Menand '213, and Steinberg, whether considered separately or in combination. Thus, claims 34, 35, 36, 44, 45, and 53, being dependent, are likewise patentable for at least the same reason. Accordingly, withdrawal of this rejection is respectfully requested.
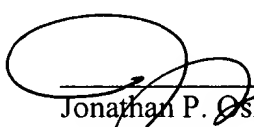
New Claims

Independent claims 54 and 55 are added by the reply. Claims 53 and 54 recite the same patentable features as independent claim 20, and thus are likewise patentable for at least the same reasons as claim 20. Further, claims 53 and 54 recite functionality to delete the loader once the updated resident software has been downloader. This functionality is not disclosed, suggested, or even contemplated, in the cited references. Accordingly, claims 54 and 55 are also patentable for this additional reason.

Conclusion

Applicant believes this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 11345/011001).

Respectfully submitted,

Date: 4/13/04

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